

STATE OF MICHIGAN
COURT OF APPEALS

MALCOLM S. GARCIA,

Plaintiff-Appellant,

v

RICHARD M. WALKER,

Defendant-Appellee.

UNPUBLISHED

May 8, 2007

No. 273773

Jackson Circuit Court

LC No. 05-005749-NI

Before: Cavanagh, P.J., and Jansen and Borrello, JJ.

JANSEN, J. (*dissenting*).

I respectfully dissent. Defendant drove his motor vehicle over plaintiff's foot. Plaintiff presented sufficient evidence to establish that his injuries were objectively manifested and that they resulted in the impairment of an important body function, namely the ability to walk and stand. Moreover, the evidence in this case created a genuine issue of material fact concerning whether the injuries affected the course or trajectory of plaintiff's life. Plaintiff was physically disabled from working as a painter, and was required to undergo two months of physical therapy. An injury may be serious so long as it is of sufficient duration to affect the course of a plaintiff's life. *Kreiner v Fischer*, 471 Mich 109, 135-136; 683 NW2d 611 (2004). An injury need not be permanent in order to be serious. *Kern v Blethen-Coluni*, 240 Mich App 333, 341; 612 NW2d 838 (2000). Viewing the evidence in the light most favorable to plaintiff, reasonable minds could conclude that plaintiff's injuries affected his general ability to lead his normal life. I would reverse.

/s/ Kathleen Jansen